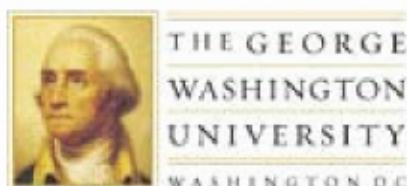


The Burger Court Opinion Writing Database

Cleveland Board of Education v. LaFleur
414 U.S. 632 (1974)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University
Forrest Maltzman, George Washington University



December 6, 1973

Dear Potter:

Re: No. 72-1129-Cohen v. Chesterfield County
School Board

May I respectfully request that you eliminate from your opinion the phrase beginning in the middle of the fifth line on page 5, "and supplied the school board with a certificate from her doctor stating that in his professional opinion she could continue working as long as she desires." The sentence could then end with the date and with the footnote reference appended at the end of the sentence as so shortened.

I make this request for two reasons. The first is that the physician's letter merely gave permission rather than stated that "in his professional opinion" she could continue working. App. 21. The second, and more important, is that the letter is an obvious attempt on her part to shore up her case. The gesture proves to be unnecessary, in view of the decision. With all due respect to Doctor David C. Forrest, I regard his letter as irresponsible. There is no way for the attending physician to know in advance that his patient may safely work "as long as she desires." He is merely accommodating his patient, and I want no part of an inference that this kind of medical letter, not restricted to the patient's current condition, is a desirable thing in a maternity leave program.

In line with this, may I also suggest a two word insert in the fifth line of footnote 13 on page 14 of the opinion. I would feel much more comfortable if that line read, "each teacher to submit a

Mr. Justice Stewart
December 6, 1973
Page 2

current certification."

From my experience, I know the ways of some obstetricians and general practitioners, and I do not wish any inference of approval on my part to this kind of thing.

Sincerely,

HAB

Any longer I request that the sentence be struck out, and then the paragraph preceding the end of the fifth line may be struck out with a circumscription line and the sentence starting after the fifth line should continue with the word **Mr Justice Stewart**. The sentence should then end with the date and place of sentencing and the signature of the President of the Court.